

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 651 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

DINESH PURSHOTTAMBHAI JANI

Versus

STATE OF GUJARAT

Appearance:

Mr.Unwalla for MR PK JANI for Petitioner
M/S PATEL ADVOCATES for Respondent No. 1
Mr.Digant P. Joshi, learned AGP for M/s Patel
Advocates.
RULE SERVED BY DS for Respondent No. 2, 3

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 28/04/2000

ORAL JUDGEMENT :

The present petition is filed by the petitioner mainly on the ground that the petitioner came to be appointed as a daily wage labourer in GTS Sector No.30

Nursery of the Forest and Environment Department. It is the case of the petitioner that in 1992, the Chief Conservator of Forest issued a circular that all those, who are working as daily wagers for more than five years with requisite qualifications should be taken as Class IV employees. It is the case of the petitioner that he made an application to the Deputy Forest Conservator in 1992. However, the petitioner did not get any response from the authorities. In the meanwhile, the petitioner along with other persons had filed a petition before this Court being Special Civil Application No.2560 of 1994 seeking relief to the effect that the petitioners be granted benefits of Govt. Resolution dated 17.10.1988. It is the case of the petitioner that the said Special Civil Application is not only admitted by this court, but interim relief is also granted. By virtue of that interim relief the petitioner has got pay scale of Class IV employee. It is the case of the petitioner that the said petition is still pending for final disposal.

2. In the meantime, on 20.8.1998, the Deputy Secretary to the Govt. of Gujarat, Forest and Environment Department issued a letter to the Chief Conservator of Forests regarding appointment of the Beat Guard. Accordingly, on 21.9.1999, the Govt. of Gujarat in Forest & Environment Deptt. has passed a Resolution, whereby 342 labourers, who were working in the department came to be appointed as Beat Guards. As the petitioner was not considered and not appointed as Beat Guard, the present petition is filed.

3. An additional affidavit is filed by the petitioner dated 18.2.2000, stating that the petitioner has studied upto Standard X and that a copy of the School Leaving Certificate is also produced on record of this case. It is also pointed out by the petitioner in this additional affidavit that the petitioner fulfils the requirements of qualifications prescribed for the appointment of Beat Guards. However, for the reasons best known to the authorities, the petitioner is not considered for appointment as Beat Guard, though he has put in 15 years of service by that time. Taking into consideration the averments made in the additional affidavit filed by the petitioner, this Court had issued rule on 23.2.2000 making it returnable on 23.3.2000. That is how the matter is heard today.

4. Shri Jashvantlal V. Pandav, Deputy Conservator of Forests, has filed an affidavit in reply on behalf of respondent no.2. Said affidavit in reply proceeds on the footing that no appointment as daily wager is made and

that only 342 labourers are appointed as Beat Guard on the basis of the qualifications, in accordance with rules. the entire affidavit does not deal with the averments of the petitioner made either in the petition or in the additional affidavit and does not say a word as to why and on what grounds the 15 years' service rendered by the petitioner is ignored and the petitioner is not considered for appointment as Beat Guard. Mr.Digant P. Joshi, learned AGP is not able to show from the affidavit in reply as to whether the case of the petitioner was considered after taking into consideration the long 15 years' service put in by the petitioner since 1984. He is also not able to show anything which bars the appointment of the petitioner on the post of Beat Guard.

4. In the facts and circumstances of the case the petition is required to be allowed and the same is allowed. Respondent no.1, Secretary, Forest & Environment Deptt. State of Gujarat is directed to consider the case of the petitioner for appointment to the post of Beat Guard in accordance with the rules after taking into consideration the qualifications held by the petitioner and also after taking into consideration 15 years' service with the department. The same shall be considered appropriately for granting him the necessary age relaxation in the facts of the case. The facts of the case warrant that the petition be allowed with cost. However, only with a view to give an opportunity to the respondents to improve themselves in future, no order of cost is passed for the present.

5. With the aforesaid observations/ directions, the petition is allowed. Rule is made absolute to the above extent with no order as to costs.

(Ravi R. Tripathi, J.)

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